

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ANDREA SODDU,

Plaintiff,

v.

C-1-08-693

PROCTOR & GAMBLE CO.,

Defendant.

ORDER

This matter is before the Court upon the Report and Recommendation of the Magistrate Judge (doc. no. 34), Objections filed thereto (doc. no. 38), Response to Objections (doc. no. 46); and defendant's Motion for Leave to File a Reply (doc. no. 47) and plaintiff's Response thereto (doc. no. 48). Hearings were held on June 10, 2010 and November 15, 2010.

In the Report and Recommendation, the Magistrate Judge recommended that the defendant's Motion for Judgment on the Pleadings or, in the Alternative, Motion to Dismiss Due to Improper Venue (doc. no.18) be denied. In the Motion, the defendant moves for judgment on the pleadings pursuant to Federal Rule of Civil Procedure, Rule 12(c) alleging the plaintiff's claims should be dismissed because he expressly waived and released these claims. In the alternative, defendant moves the

Court to dismiss Plaintiff's complaint pursuant to Fed. R. Civ. P. 12(b)(3) for improper venue or inconvenient forum. The Magistrate Judge recommended that Plaintiff had presented sufficient evidence that the claims are governed by the laws of the State of Ohio and defendant's motion to dismiss for improper venue should be DENIED. The Magistrate Judge also recommended that defendant's motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(3) for inconvenient forum be denied. An Evidentiary Hearing was held on that issue on Monday, November 15, 2010.

Pursuant to the record established during the Hearings, the Court **CONVERTS** the defendant's Motion for Judgment on the Pleadings to one for summary judgment under Rule 56, pursuant to Fed. R. Civ. P. 12(d). Both parties are given an opportunity to present all the material that is pertinent to the motion. The Court **DENIES** the Motion to Dismiss for improper venue and for inconvenient forum pursuant to the discussion placed on the record.

The Report and Recommendation is **ADOPTED AS MODIFIED**.

Defendant's Motion for Leave to File a Reply (doc. no. 47) is rendered **MOOT** and is **DENIED**.

IT IS SO ORDERED.

s/Herman J. Weber
Herman J. Weber, Senior Judge
United States District Court